compliance with the Buy America requirements. This action permits the use of pig iron and processed, pelletized, and reduced iron ore manufactured outside of the United States to be used in the domestic manufacturing process for steel and/or iron materials used in Federal-aid highway construction projects.

EFFECTIVE DATE: March 24, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald L. Eller, Office of Engineering, (202) 366–0392 or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: In accordance with 23 CFR 635.410(c)(6), the FHWA hereby provides notice that it is granting a nationwide waiver of the requirements of 23 CFR 635.410, Buy America requirements, for pig iron and processed, pelletized, and reduced iron ore. Pig iron is made from molten iron which has been cast in the shape of ''pigs'' as it comes from a blast furnace. Processing, pelletizing, and reducing iron ore are methods by which raw iron ore is improved to produce enriched ore.

Section 635.410 provides, with exceptions, that no Federal-aid highway construction project using steel or iron materials is authorized to proceed unless all manufacturing processes for these materials, including the application of coatings for such materials, occur in the United States. Because the domestic supply of pig iron and processed, pelletized, and reduced iron ore is not adequate, a nationwide waiver of these requirements is being granted for these specific iron components. Items not specifically included in the waiver remain subject to the Buy America requirements.

The basis for the nationwide waiver is that pig iron and processed, pelletized, and reduced iron ore are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality. Therefore, imposing Buy America requirements on these materials is not in the public interest.

On August 23, 1994, the FHWA published a notice (59 FR 43376) and requested comments on the proposed nationwide waiver and the availability of a domestic supply of the components included in the waiver. Ten comments were received to FHWA Docket No. 94–18. All 10 commentors were supportive of the waiver, although some questioned the need for waiver.

Several commentors concluded that domestic supplies of pig iron and processed, pelletized, and reduced iron ore are either inadequate or nonexistent in their region of the United States. Supplies were believed to be inadequate now and in the future. One commentor offered analysis of the current domestic pig iron supply, performed by an outside consultant. Its analysis showed that the volume of available domestic pig iron is insufficient to supply the electric furnace steel producers in the United States. Of the 23 blast furnace sites in the United States the analysis showed that only four currently sell pig iron. No commentor stated that the domestic supply of pig iron and processed, pelletized, and reduced iron ore is adequate. The FHWA concludes that the waiver is substantiated due to the unavailability of pig iron.

Although supportive of the waiver several commentors questioned the need for a waiver, since they believed that pig iron and processed, pelletized, and reduced iron ore were already exempt from the Buy America requirements. Their belief was based on the idea that the Buy America requirements apply only to products further along in the manufacturing process of steel and iron. The FHWA has previously stated that products of a manufacturing process are not exempt from the Buy America requirements. On November 25, 1983, the FHWA published a final rule (48 FR 53099) of the Buy America requirements to implement procedures required by § 165 of the Surface Transportation Assistance Act (STAA) of 1982 (Pub. L. 97–424). The final rule's discussion of manufactured materials stated that ''Raw materials used in the steel * * * product may be imported. All manufacturing processes to produce steel * * * products must occur domestically. Raw materials are materials such as iron ore * * * [and] waste products * * * which are used in the manufacturing process to produce the steel * * * products'' (48 FR 53099, 53103). Consistent with this interpretation, pig iron and processed, pelletized, and reduced iron ore are products of a manufacturing process and thus subject to the Buy America requirements.

At least one commentor questioned whether the FHWA's Buy America regulation applies to certain alloys required in the production of steel and/or iron materials. Even though most of these alloys are unavailable from domestic sources, alloys were not addressed in the 1983 final rule. Similar to the treatment of raw iron ore, alloys in their raw state may be imported for use in the domestic manufacturing process of steel and/or iron materials. Furthermore, processed alloys, alone, are not considered to be steel or iron materials under the Buy America regulation. Thus, unless alloys have been processed or refined to include substantial amounts of steel and/or iron materials, they are not subject to the Buy America requirements.

(Pub. L. 97–424, § 165, 96 Stat. 2097, 2136, as amended by Pub. L. 98–229, § 10, 98 Stat. 55, 57, and Pub. L. 102–240, §§ 1041, 1048, 105 Stat. 1914, 1993, 1999; 23 U.S.C. 315; 49 CFR 1.48; 23 CFR 635.410)

Issued on: March 20, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–7362 Filed 3–21–95; 3:49 pm]

BILLING CODE 4910–22–P

National Highway Traffic Safety Administration

23 CFR Part 1313

[Docket No. 89–02; Notice 7]

RIN 2127–AD01

Incentive Grant Criteria for Drunk Driving Prevention Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Interim final rule; reopening of comment period.

SUMMARY: On August 9, 1994, (59 FR 40471) NHTSA published an interim final rule, amending the criterion in part 1313 for a supplemental grant for States that deem persons under age 21 who operate a motor vehicle with a BAC of 0.02 or greater to be driving while intoxicated. The interim final rule requested comments on the amendment. Today's notice reopens the comment period to provide States, national organizations and other interested persons an additional opportunity to comment on the amendment.

DATES: The comment period for NHTSA Docket No. 89–02; Notice 6 is reopened so that it closes May 23, 1995.

ADDRESSES: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ms. Marlene Markison, Chief, Program Support Staff, NSC–10, National Highway Traffic Safety Administration,

400 Seventh Street SW., Washington, DC 20590; telephone (202) 366–2121 or Dr. James Hedlund, Director, Office of Alcohol and State Programs, NTS–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–2753.

SUPPLEMENTARY INFORMATION: The section 410 program, established in title 23, United States Code, section 410, as amended, is an incentive grant program under which States may qualify for basic and supplemental grant funds for adopting and implementing comprehensive drunk driving prevention programs that meet specified statutory criteria.

To qualify for basic grant funds under section 410, a State must meet five out of six basic criteria. The criteria include an expedited driver's license suspension or revocation system, a per se law (at 0.10 BAC in the first three fiscal years in which the State receives a grant and 0.08 BAC in subsequent years), a statewide program for stopping motor vehicles, a self-sustaining drunk driving prevention program, a minimum drinking age prevention program, and mandatory sentencing requirements.[1]

If a State qualifies for a basic grant, it may also seek to qualify for funds under one or more of seven supplemental grants. The supplemental grants include a per se law for persons under age 21, a program making unlawful open containers and consumption of alcohol in motor vehicles, a suspension of registration and return of license plate program, a mandatory alcohol concentration testing program, a drugged driving prevention, a per se level of 0.08 (in the first three fiscal years in which the State receives a grant), and a video equipment program.

Per se Law for Persons Under Age 21 Supplemental Grant

To qualify for the ''per se law for persons under age 21'' supplemental grant, Section 410 requires that the State must be ''eligible for a basic grant in the fiscal year and (provide) that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.''

In an interim final rule, dated June 30, 1992, NHTSA explained:

> In other words, States must establish a 0.02 per se law for persons under the age of 21, that makes driving with a BAC of 0.02 percent or above itself an offense for such persons. (57 FR 29007)

The interim final rule amended the regulation to provide that, to qualify for this supplemental grant, a State must ''provide that any person under age 21 with an alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of administrative sanctions.''

The agency interpreted this criterion to require that a State's law must provide that 0.02 BAC underage offenders must be treated the same as other (0.10) DUI offenders would be treated under the State's administrative license revocation (ALR) law, for the State to qualify for a ''per se law for persons under age 21'' supplemental grant.

Further, the agency determined that States that did not have an ALR law at all or did not have an ALR law that qualifies under section 410 need not provide for identical sanctions, but their laws must require a minimum 30-day license suspension as an administrative sanction for 0.02 underage offenders, and the suspension must be mandatory.

Changes to the regulation

Some States objected to the application of this portion of part 1313. In response to these objections, NHTSA published an interim final rule on August 9, 1994 (59 FR 40470), amending part 1313 to provide that any State (whether it has an ALR law that conforms to section 410 or not) need only provide for a 30-day suspension or revocation for persons under the age of 21 who operate a motor vehicle with a BAC of 0.02 or greater. The 30-day suspension or revocation period must be a mandatory hard suspension or revocation (i.e., it may not be subject to hardship, conditional or provisional driving privileges).

The interim final rule also amended the regulation to permit States to demonstrate compliance with this criterion as either ''Law'' or ''Data'' States. The amended regulation defined a ''Law State'' as a State that has laws, regulations, or binding policy directives which, on their face, meet each element of the criterion. It defined a ''Data State'' as a State that has laws, regulations, or binding policy directives which, on their face, meet each element, except that they need not specifically provide for a 30-day hard suspension.

Under the interim final rule, the regulation was amended to provide that, to demonstrate compliance, a ''Law State'' must submit only the law, regulation or binding policy directive itself governing its 0.02 per se law for persons under age 21. It need not submit data. To demonstrate compliance, a ''Data State'' must submit its law, regulation, or binding policy directive governing its 0.02 per se law for persons under age 21. It must also submit data demonstrating that the average length of hard suspensions for offenders under the State's per se law for persons under age 21 meets or exceeds 30 days.

Comments Received

NHTSA received four comments in response to the interim final rule. The commenters included the Michigan State Police Department, the Michigan Department of State, the National Association of Governors' Highway Safety Representatives (NAGHSR) and Advocates for Highway and Auto Safety (Advocates).

Both comments from the State of Michigan objected to the imposition of legislative mandates in the section 410 program. The Michigan commenters favored the use of performance-based criteria instead. Michigan has raised this comment previously regarding other aspects of the section 410 program. However, section 410 does not permit the agency to disregard the statutory criteria and qualify a State based solely on performance.

The Michigan Department of State Police and NAGHSR objected to the 30-day hard suspension requirement. These commenters were concerned that, by defining this requirement, NHTSA was making the criterion stricter, thereby making it more difficult for States to qualify for section 410 funds. NAGHSR also objected to the interim final rule's provision that States ''must be a Law or Data State in order to show compliance.''

NHTSA wishes to clarify that the changes that were made to the regulation in the interim final rule made it easier, not more difficult, for States to qualify for the 0.02 supplemental grant. Prior to the issuance of the interim rule, to qualify for this grant, States with ALR laws that qualified under section 410 were required to impose the same sanctions on 0.02 BAC underage offenders as were imposed on other (0.10 or, in some States, 0.08) DUI offenders. These sanctions include a 90-day suspension for first offenders (30 days of which must be hard for those who fail the test and all of which must be hard for those who refuse to submit to the test) and a one-year hard suspension for repeat offenders.

Further, prior to the issuance of the interim rule, to demonstrate compliance for this grant, States could only qualify by submitting a conforming law (i.e., as

[1] To receive a basic grant, States that qualified for section 410 funding in FY 1992 need only demonstrate compliance with four out of the five criteria in effect at that time, namely all the basic criteria listed above except for mandatory sentencing.

Law States). The interim rule provided additional flexibility by permitting States with laws that contain exemptions or some other provision that did not fully comply with the criterion, to demonstrate compliance through the use of data.

As a result of the changes made in the interim final rule, three States qualified for funding under the 0.02 supplemental criterion that were not able to qualify previously. These States included California, Ohio and Virginia.

Advocates did not oppose the amendment contained in the interim rule, but expressed some reservations. Advocates stated, ''We are not convinced * * * that a 30-day period of suspension is sufficient to make an effective impression on under age 21 drivers. * * * We believe that there is a strong argument for requiring a 90-day suspension for under age 21 supplemental grants even for states that meet the basic grant criteria without an ALR law.''

NHTSA adopted the 30-day hard suspension criterion for both administrative license suspension laws (for first offenders who submit to and fail a chemical test) and for 0.02 laws for youth because that is the sanction that is recommended in the Uniform Vehicle Code concerning license suspension laws (see § 6–215, Limited License) and because most States with demonstrated effective license suspension laws provide for a 30-day hard suspension period. NHTSA is not aware of any evidence that State zero tolerance laws which provide for a 90-day hard suspension are any more effective than State zero tolerance laws which provide for a 30-day hard suspension. Of course, States that provide for a hard suspension period of longer than 30 days could qualify for grant funding under this criterion.

Both NAGHSR and Advocates also objected to NHTSA's use of an interim final rule without providing for prior notice and an opportunity for public comment. As explained in that document, the changes were published as an interim final rule, because the regulation relates to a grant program, to which the requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, are not applicable. Moreover, the agency explained that, even if the notice and comment provisions of the APA did apply, there is good cause for finding that providing notice and comment in connection with the rulemaking action was impracticable, unnecessary and contrary to the public interest, since it would have prevented States from qualifying for grant funds in fiscal year 1994.

The agency's finding was based also on its view that the amendments made in the interim final rule rectified an inequity in the regulation, provided additional flexibility for the States and were consistent with other provisions in the section 410 implementing regulation, which was promulgated subject to notice and a full opportunity for the public to comment.

The agency stated there would be little benefit gained by following the notice and comment procedures with regard to the revisions made by the interim final rule.

NHTSA believes its assessment was correct, as demonstrated by the small number of comments received in response to the interim final rule. However, NHTSA wishes to ensure that the public has a full opportunity to be heard. Therefore, the agency has decided to reopen the comment period to provide the public with an additional opportunity to comment on the agency's action.

The regulation, as amended by the interim final rule, remains in effect and binding. Following the close of the reopened comment period, NHTSA will publish a notice responding to any additional comments it receives and, if appropriate, will amend the provisions of this rule.

Issued on: March 20, 1995.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 95–7264 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 44 and 45

[Docket No. R–95–1777; FR–3767–F–01]

RIN 2501–AB85

Non-Federal Audit Report Submission Requirements

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: HUD is amending the single audit requirements for the submission of audit reports. HUD's current regulations require recipients of Federal financial assistance from HUD to submit a copy of their audit report to HUD. This rule describes the circumstances under which a ''no finding'' report need not be submitted.

EFFECTIVE DATE: April 24, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Bell, Office of the Inspector General, Room 8180, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone (202) 708–0383. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–9300 (These telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION:

I. Background

HUD is amending the single audit requirements for the submission of audit reports found at 24 CFR 44.10(f) and 24 CFR 45.4.

A. 24 CFR Part 44

Part 44 implements the general audit requirements for recipient organizations in OMB Circular A–128 ''Audits of State and local governments.'' The OMB Circular was issued under the Single Audit Act of 1984 (31 U.S.C. 7501–7507) (the Act). The Act requires State or local governments that receive $100,000 or more a year in Federal financial assistance to have an audit conducted according to the Act's standards.

State or local governments that receive between $25,000 and $100,000 a year have the option of having an audit conducted according to the Act's standards or having a grant specific financial audit performed. The requirements for conducting these grant specific audits are described in 24 CFR 44.1(c)(2). State or local governments that receive less than $25,000 a year are exempt from the audit requirements.

Section 7505 of the Act requires the Office of Management and Budget (OMB) to establish procedures and guidelines to implement the Act. It specifies that OMB shall assign an overseeing, or cognizant, Federal agency to each recipient in order to facilitate the auditing process and ensure that the audit requirements are met. The responsibilities of cognizant agencies are set forth in 24 CFR 44.8.

B. 24 CFR Part 45

Part 45 implements the audit requirements for recipient organizations in OMB Circular A–133 ''Audits of Institutions of Higher Education and Other Nonprofit Institutions.'' Section 45.1 requires that nonprofit institutions whose receipts of Federal financial assistance and outstanding Federal direct, guaranteed, or insured loan balances total $100,000 or more a year have an audit conducted in accordance with the requirements of OMB Circular A–133.